

## FAIR WILL BE OPEN

Federal Judges Dissolve the Injunction Yesterday.

## JUSTICE FULLER'S DECISION

The Opinion Was Unanimous That the Government Did Not Have a Legal Leg to Stand On.

CHICAGO, June 17.—Chief Justice Melville W. Fuller a few minutes after 11 o'clock this morning handed down the unanimous finding of the federal court of appeals in what is now popularly known as the Sunday closing case. The chief justice himself had written the decision in lead pencil on a dozen sheets of "scratch paper," and as he read it in a clear voice and with well chosen emphasis every word penetrated to the remotest corners of the room, and was distinctly heard and understood by every body in the highest assemblage that ever crowded a court room in Cook county. In brief, the decision overrules the contention of the government that the case should have gone directly to the supreme court of the United States and should be dismissed for lack of jurisdiction in the court of appeals. The bill of the United States is dismissed for want of equity. All the conclusions and findings of Judges Woods and Jenkins in the district court are reversed while the dissenting opinion of Judge Townsend is sustained in every vital particular.

## Full Text of Decision.

The full text of the decision was as follows: "Desiring it desirable that this matter should be decided at once, we shall announce the result arrived at, postponing for want of time the elaboration of the views expressed which will hereafter be filed. Appellants have submitted a motion to dismiss this appeal upon the grounds that the jurisdiction of the circuit court was in issue, that the case involved a construction or application of the constitution of the United States, and that the constitutionality of the law of the United States was drawn into question therein; that therefore the appeal from the final decree would lie to the supreme court of the United States and not to this court, and hence that this appeal, which is from an interlocutory order, cannot be maintained under the seventh section of the judiciary act of March 3, 1901. We do not understand the contention of appellants to be that the power of the circuit court to hear and determine the case was denied, but that the appellants contended that the United States had not by their bill made a case properly cognizable in a court of equity. The objection was a want of equity and not a want of power. The jurisdiction of the circuit court was therefore in issue within the meaning and intent of the law so far as the constitution or the application of the constitution of the United States and the constitutionality of the laws of the United States are concerned. We are of opinion that the order we are called upon to review in this case does not involve the constitution or the application of the constitution of the United States and the constitutionality of the laws of the United States. The jurisdiction of this court to review the order cannot be determined by the instance of the appellants because the constitutionality of the matter upon which they rely may have been challenged. The motion to dismiss is overruled.

The question to be determined is whether upon this record a preliminary injunction should have been granted. The bill avers that the defendants are usurping powers involving authority over the exposition and the grounds, and in virtue thereof assume to open the exposition on Sunday in contravention of the acts of congress prohibiting such opening would be of great injury and a grievous prejudice to the common public good and to the welfare of the people of the United States. It is not contended that any property interest of the complainant has been injured by the threatened action, nor is there any allegation of irreparable injury or probable loss by such action. But it is said that the intervention of the court may be needed upon the protection of the United States in the possession of the grounds of the exposition for the purpose of protecting the United States in its possession. The furnishing of the five million souvenir coins was a condition upon the local corporation by the United States, and is also contributed to the further sum of \$2,000,000 and the giving to the government of the great department of the exposition and the closing of the exposition on Sunday.

In view of the vast previous expenditure of the corporation and the extent of the obligations assumed, the right of all parties concerned, and the nature of these conditions and the conditions subsequent, we do not think this a proper case for the rule in question, nor can we entertain the proposition that the appropriation of the \$2,000,000 amounted to a charitable trust for the purpose of the conditions warranted. The appropriation was made for the purpose of aiding in defraying the cost of the completion of the work and to be paid over in vouchers for labor done, material furnished and services performed in the prosecution of the work. It is an appropriation for the benefit of the local corporation to help it out of its financial difficulty and to enable it to complete its undertaking, and as such does not come under the accepted definition of a charitable trust. So far as the purpose of the appropriation, subsequently made is concerned, that purpose had to be accomplished before the money could be paid over.

The decision of this court might interfere to protect the United States in the possession, but it is based on the proposition that it is actually under the law of the state and of the ordinance of the north park commissioners. The possession is recognized by the acts of

meant to be applied to the construction and administration of the exposition by the corporation. In that construction the corporation has invested millions of dollars under circumstances that preclude the view that the United States has assumed administration of the exposition. It is perfectly clear that Congress never intended that Congress should become responsible for the construction of any of the buildings except its own or for the work provided for by the appropriation. However, it was intended that the exposition should receive the sanction of the government, and in that sense, as remarked by Chief Justice Waite in the Philadelphia case, "be improved by a national or international character." Of course the government has a qualified interest in the exposition, and in this regard upon which to base an intervention of a court of equity on that ground.

We cannot now discuss the various questions necessary to be considered, but which will be treated in the opinion to be filed. It is sufficient to say that we cannot except this case from the ordinary rule, which requires to the exercise of jurisdiction in chancery some injury to property, whether actual or prospective, some invasion of property or civil rights, some injury irreparable in its nature, and in such cases, as we have said, this is not such a case and the result is we hereby refuse the order and the case is remanded for further proceedings not inconsistent with these conclusions.

## SHAKE RUSSELL'S HAND.

Massachusetts Building Was Appropriately Dedicated Yesterday.

CHICAGO, June 17.—If William E. Russell, the beardless young governor of the commonwealth of Massachusetts, had been president of the United States he would have been honored more than he was today in the Massachusetts house of the world's fair. Among the Americans who came to be presented to the governor, he was probably the choice of nine tenths of them for the next president of the republic, as remarks of the press and the people have shown. Not alone did the sons and daughters of the old Bay State now in Chicago, call to shake the popular governor's hand and show by their presence in the state building that they were observing the anniversary of the battle of Bunker Hill, men and women came from many other states of the Union to meet the chief magistrate of Massachusetts. They exhortation official spared time to leave their work and pass with a handshake and a bow before his excellency and the receiving party. Representatives of foreign governments, including those of France, Germany, Italy, Turkey, Austria, Japan and Ceylon, called to pay their respects in a like manner. It was a most flattering and gratifying tribute to an American public officer, a servant of the sovereign people of Massachusetts.

On the walk inside the fence the Massachusetts flag floated from a high staff in honor of the day and the governor's presence. Promptly at 11 o'clock Governor Russell, Mrs. Russell, Gen. Francis A. Walker, representing the state committee; Mrs. Palmer and Miss Dawes, from the woman's committee of Massachusetts, took their places in the parlor. They were surrounded by the members of the governor's staff in the uniform of their rank. From 11 to 2 o'clock, except during an intermission of fifteen minutes for refreshments, a continuous line of people passed by the governor, who extended his hand to all. Mrs. Russell was compelled to seek intervals of rest for her arm, as she is afflicted with rheumatism, and only bowed to those who were presented at that time. Those who watched the reception throughout agreed that at least 5,000 persons shook the governor's hand and 5,000 more passed through the building without doing so. Lunch was served at 1 o'clock in the dining room of the parlor of the house. Immediately after the reception the governor and his staff left the building for the city. At night the Bunker Hill celebration was concluded with a \$2,500 display of fireworks in the park. The aerials were set off by the company. The night was fine and there was an immense crowd.

## HORSES AND RIDERS WELL.

Four Men Are Struggling for the Lead in the Cowboy Race.

O'NEILL, Neb., June 17.—The advance guard of the cowboy race arrived at O'Neill at 10 o'clock this morning. The party consisted of H. B. Olinde of Chadron, press representative; Harvey Weir of Chadron, owner of one of the horses; Mike Elmore of Heringford, who has two horses in the race; John C. Deaton of Lincoln, who has one horse; and Jack Hale, right of way agent of the Fremont, Elkhorn & Missouri Valley railroad, who has two horses in the race; G. C. Bolan, W. W. Tatro and Paul Fontaine, both of Minneapolis, representing humane societies. Mr. Fontaine says that he is satisfied so far.

James H. Stephens, riding General Grant and Nick Dock, Middleton, Germino and Janssen; Joe Gillespie, riding Billy Mack and Billy Shaffer, were at Alhambra at 10 o'clock. Ernest A. Wright, riding Outlaw and Joe Bush, was ten miles west of Alhambra at 9 a. m. C. W. Smith, riding Dynamite and Redwing, was about four hours behind the leaders when they registered at Long Pine last night. Dave Longhous, riding Monte Cristo and Wildswallow; Joe Campbell, John Berry and George W. Jones, reported last in the and hills, registered at Long Pine this morning.

## Daughters Entertain Sons.

CHICAGO, June 17.—The Chicago chapter of the Daughters of the Revolution entertained the Sons of the American Revolution, the national society and all visiting chapters of the Daughters of the Revolution this afternoon at 2 o'clock in the assembly hall of the woman's building at the world's fair. About 800 guests were present. The affair was one of the most enjoyable of the season, and a delightful reunion of friends from far and near.

## World's Fair Attendance.

CHICAGO, June 17.—Paid admissions at the fair today were 144,000; total attendance, 179,400.

## Indiana Bank Suspended.

INDIANAPOLIS, Ind., June 17.—The Citizens bank of Connersville, this county, suspended today, and Ross Kimpfe, an attorney of that place, was appointed receiver. The assets are figured at \$53,000, and the liabilities \$53,000.

## Three Outlaws Captured.

HOUSTON, Texas, June 17.—Three of the Star gang of outlaws have been captured in the Creek nation, by a posse, while pursuing one of their wounded comrades.

## HE IS THINKING NOW

William and Carol Figure on the Recent Election.

## AFRAID OF THE SOCIALISTS

Austria Says That Germany Is in Great Danger and That the Chancellor Should Assert Himself.

BERLIN, June 18.—The returns have almost ceased coming in, although reports from thirty districts are still lacking. At 12 o'clock the army bill parties and groups had 53 seats; the opposition parties 55. All depends upon the second ballots.

BERLIN, June 17.—The defeat of the Reichstag in Thursday's election appears to be irreversible. Their organs admit the crushing character of the disaster, but the Berlin *Freischaftungs* organ finds comfort in contemplating that the ultimate poll of the party, combined with the Volks party, contrasts and socialists will form an overwhelming plebeian against the army bill and the Hunsen compromise. It is certain that if the plebeians were to decide the fate of the government the enormous socialist vote already cast would determine that. But the army bill will depend largely upon party combinations, regarding which it is still hazardous to attempt to form any definite conclusion.

Herr Richter himself says it is doubtful whether a majority against the bill can be yet inferred from the ascertained results. In calculating, with the accession of strength the socialists will gain in the Reichstag, the fact must be remembered that the whole force of the party has always been pulled in the first place by other parties who are the greatest strength on re-ballots. It was thus in 1900 when the freischaftungs party won in all thirty-five of the re-ballots between them and the socialists. About eighty socialists will stand in the coming re-ballots, and it is fractional to credit them with securing twenty-six seats more. Before the elections Herr Volmar, one of the smart heads of the party, predicted that fifty of his colleagues would appear in the new Reichstag.

## Strength of Socialists.

What ought to concern the government quite as much as the increase of the socialists in parliament is the development of socialism throughout the country.

Chancellor von Caprivi held conferences with the emperor on Thursday and again last night, reporting to his majesty the results of his journey. It is rather significant that the personal official organs today offer suggestions as to how to curb the popular vote.

Regarding the Reichstag, the recent elections do not appear to seriously affect their strength. The party may lose fifteen seats and still remain the most solid party in the house. If after the re-ballots the Reichstag is in favor of the bill after fifteen strong, it will not greatly affect the fighting power of the main section of the party. Both the conservatives and the liberals are coming out better than it was expected they would, both having to fight numerous re-ballots against the socialists. These two parties must rely upon coalition in order to defeat their common enemy. The national liberals have the best chance in the Reichstag, and are coming out better than it was expected they would, both having to fight numerous re-ballots against the socialists. These two parties must rely upon coalition in order to defeat their common enemy. 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